

### REMARKS

Claims 6, 8-10, 14, 15, 17, 19, 26, 27 and 30 have been amended for clarification purposes and claims 18, 20-25, 28, 29 and 31-33 have been canceled. These amendments are not intended to narrow the scope of these claims. The claims have been rewritten to place them in better form for examination and to further obviate the 35 U.S.C. §112 rejections set forth in the Office Action dated July 9, 2002. It is believed that none of these amendments constitute new matter. Withdrawal of these rejections is requested.

Applicant acknowledges the requirement for a deposit of biological material. Upon allowance of the claims in this application, the deposit will be made with American Type Culture Collection and the claims will be amended to include the ATCC accession number.

The Examiner has rejected claims 1-33 under 35 U.S.C. §112, first paragraph for enablement. As stated in the specification on page 34, the seed deposit is being maintained by AgReliant Genetics at their Lebanon, Indiana facility. The deposit will be available to the Commissioner during the pendency of this application and upon allowance of any claims, deposit of the corn seed will be made with the American Type Culture Collection.

The undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of these rejections is requested.

The Examiner has rejected claims 17-25 under 35 U.S.C. §112, first paragraph for enablement. Applicant has amended claims 17 and 19 and canceled 18, and 20-25. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 6-33 under 35 U.S.C. §112, second paragraph as being indefinite. Specifically, claim 6 is rejected as indefinite in the recitation of "wherein the plant is male sterile". Applicant has amended claim 6 for clarification purposes.

Claim 8 is rejected as indefinite. Applicant has amended claim 8 for clarification purposes.

Claims 10, 24 and 30 are rejected as indefinite of "using" and "utilizing". Applicant has amended claims 10 and 30 and canceled claim 24.

Claims 9, 10 and 27 have been rejected as indefinite. Applicant has amended claims 9, 10 and 27.

Claim 14 is rejected as indefinite. Applicant has amended claim 14 as suggested by the Examiner.

Claim 15 and dependent claim 16 is rejected for the recitation of "different corn plant". Applicant has amended claim 15 for clarification purposes.

Claim 17 is rejected as indefinite. Applicant has amended claim 17 as suggested by the Examiner.

Claims 19-25 are rejected in the recitation of "RAA1-derived corn plant". Applicant has amended claim 19 and deleted 20-25.

Claim 27 is rejected as indefinite. Applicant has amended claim 27 as suggested by the Examiner.

Claim 31 is rejected as lacking antecedent basis. Claim 31 has been canceled.

Claim 33 is rejected as indefinite. Claim 33 has been canceled. Accordingly, withdrawal of these rejections are respectfully requested.

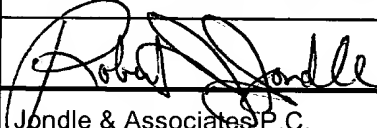
The Examiner has rejected claims 12-18 and 20-33 under 35 U.S.C. §112, first paragraph as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 18, 20-25, 28, 29 and 31-33 have been canceled. Applicant submits that once inbred RAA1

has been developed a skilled breeder can cross inbred RAA1 with any other corn genotype to produce a hybrid corn seed and hybrid corn plant having 50% of its germplasm from RAA1. A skilled breeder also knows how to self pollinate these hybrids to produce  $F_2$  seed and plants. On pages 32 and 33, Tables 1-3 show data on several hybrid combinations of RAA1 compared to other corn hybrids. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1-33 are rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Buendgen (US Patent 5,866,763(A), filed September 1996). Applicant submits that there are numerous differences between the '763 patent and the present invention. Some of the differences include for maturity (as measured from emergence to 50% of plants in silk) the present invention is 1341 heat units versus the maturity of the '763 invention having 1483 heat units. The maturity from emergence to 50% of plants in pollen for the present invention is 1341 heat units versus the maturity of the '763 invention being 1452 heat units. Both the plant and ear height of the two varieties are significantly different. The present invention has a plant and ear height of 202.3 cm and 68.9 cm respectively while the '763 invention has a plant and ear height of 187.9 cm and 101.6 cm. Additionally, the anther color is very light pink for the present invention and purplish brown for the '763 patent. Also, the yield of the two varieties is significantly different: 52 bushels per acre for the present invention as compared to 86.3 bushels per acre for the '763 patent. In light of the many differences between these two plants, Applicant respectfully requests withdrawal of this rejection.

Attached hereto is a marked-up version of the changes made to the specification by the current amendment. The attached page is captioned **"Version with markings to show changes made."**

In view of the above amendments and remarks, it is submitted that the claim satisfies the provisions of 35 U.S.C. §112 and is not obvious over the prior art. Reconsideration of this application and early notice of allowance is requested.

RESPECTFULLY SUBMITTED,					
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**Attachments:** Marked-Up Copies of Claims

**AMENDED CLAIMS - Version with markings to show changes made**

Please cancel claims 18, 20-25, 28, 29 and 31-33.

Please amend claims 6, 8-10, 14, 15, 17, 19, 26, 27 and 30 as shown below:

6. (AMENDED) The corn plant of claim 2, wherein said plant ~~is male sterile~~ further comprises a genetic factor conferring male sterility.

8. (AMENDED) A The tissue culture according to claim 7, ~~the cells or protoplasts of~~ the tissue culture of regenerable cells being from a tissue selected from the group consisting of leaves, pollen, embryos, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.

9. (AMENDED) A corn plant regenerated from the tissue culture of claim 7, wherein the regenerated plant is capable of expressing all the morphological and physiological characteristics of inbred line RAA1, representative seed of said line having been deposited under ATCC Accession No. \_\_\_\_\_.

10. (AMENDED) A corn plant with all of the physiological and morphological characteristics of corn inbred RAA1, representative seed of said line having been deposited under ATCC Accession No. \_\_\_\_\_.

14. (AMENDED) A corn seed produced by growing said hybrid corn plant of claim 13 and harvesting the resultant corn seed.

15. (AMENDED) An F<sub>1</sub> hybrid seed produced by crossing the inbred corn plant according to claim 2 with another, genetically different corn plant.

17. (AMENDED) A method for producing inbred corn seed RAA1, representative seed of which have been deposited under ATCC Accession No. \_\_\_\_\_, comprising:

- a) planting a collection of seed comprising seed of a hybrid, one of whose parents is inbred RAA1, said collection also comprising seed of said inbred;
- b) growing plants from said collection of seed;
- c) identifying inbred parent plants;
- d) controlling pollination in a manner which preserves the homozygosity of said inbred parent plant; and
- e) harvesting the resultant seed.

19. (AMENDED) A method for producing a RAA1-derived corn plant, comprising:
- a) crossing inbred corn line RAA1, representative seed of said line having been deposited under ATCC accession number \_\_\_\_\_, with a second corn plant to yield progeny corn seed; ~~and~~
  - b) growing said progeny corn seed, under plant growth conditions, to yield said MNI1-derived corn plant;
  - c) crossing said RAA1-derived corn plant with itself or another corn plant to yield additional RAA1-derived progeny corn seed;
  - d) growing said progeny corn seed of step (c) under plant growth conditions, to yield additional RAA1-derived corn plants; and
  - e) repeating the crossing and growing steps of (c) and (d) from 0 to 7 times to generate further RAA1-derived corn plants.

26. (AMENDED) The corn plant, or parts thereof, of claim 2, wherein the plant or parts thereof have been transformed so that its genetic material contains one or more transgenes operably linked to one or more regulatory element, wherein said transgene comprises an insect resistance gene or a herbicide resistance gene.

27. (AMENDED) A method for producing a corn plant that contains in its genetic material one or more transgenes, comprising crossing the corn plant of claim 26 2 with either a second plant of another corn line or with a non-transformed corn plant of the line RAA1, representative seed of said line having been deposited under ATCC Accession No. \_\_\_\_\_ so that the genetic material of the progeny that result from the cross contains the transgene(s) operably linked to a regulatory element.

30. (AMENDED) A method for developing a corn plant in a corn plant breeding program using plant breeding techniques which include employing a corn plant, or its parts, as a source of plant breeding material comprising: ~~using~~ obtaining the corn plant, or its parts, of claim 2 as a source of said breeding material and wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.